

# Kentucky constable position has outlived usefulness, report says

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The Kentucky Law Enforcement Council released a report Thursday saying the office of constable has outlived its usefulness and is no longer considered essential to modern law-enforcement work.

The question about the relevance of constables was raised in April by Kentucky Justice and Public Safety Secretary J. Michael Brown. Brown directed the Department of Criminal Justice Training to determine whether constables had a viable role, a news release from Brown's office said.

Brown's concern stemmed from recent high-profile criminal cases involving constables and deputy constables.

Constables in Kentucky largely perform security-guard functions, direct traffic at events or serve civil warrants, the report said.

"While constables undeniably wish to perform a public service, the fact remains that for many of them the role is a part-time position with no certified requirements, no certified standards and no training," Department of Criminal Justice Training Commissioner John Bizzack said in the news release. "What we have today is a position that has been called a hobby. And as a hobby, the office shouldn't have the same law-enforcement authority as trained, certified professional officers.

"Edward Sparks, a second district deputy constable in Fayette County and vice president of the Kentucky Constable Association, said Thursday that at last count there were 490 constables in Kentucky, but that number probably increased after Tuesday's election.

The three constables and their staffs in Fayette County don't draw salaries paid by tax dollars. The constables and their staffs deliver civil court papers for a fee paid by parties in court cases. The fee is sometimes between \$30 and \$40. A constable has arrest powers and can carry a gun, according to Herald-Leader archives.

The report was released against a backdrop of several notable criminal cases against constables:

- In Fayette County, Dannie Ray Pendygraft, who had been a deputy constable for about two years, was sentenced in May to a weekend in jail and three years'

probation after pleading guilty to official misconduct and promoting prostitution. Pendency accepted sexual favors from prostitutes in exchange for rent. He was dismissed as a Fayette constable after pleading guilty.

■ In Louisville last month, Jefferson County Constable David Whitlock agreed to resign as part of a plea agreement that spared him prison time for shooting a suspected shoplifter in a Wal-Mart parking lot, the Louisville Courier-Journal reported.

■ In December 2011, a federal grand jury convicted Clay County constable Jackie Roberts of selling pain pills and illegally possessing a gun.

Fayette Constable Steve Hamlin said Thursday that Pendency's case was the first among Fayette County constables or their staffs that he was aware of in the last several years.

Hamlin, the Government Affairs Director of the Kentucky Constable Association, said he had not seen the report released Thursday but he did not think the office should be abolished.

"We have served tens of thousands of papers in the past few years without costing taxpayers a penny. We can serve very safely and productively," he said.

The report from the working group, "Constables in Kentucky: Contemporary Issues and Findings Surrounding an Outdated Office," revealed that an overwhelming majority of 1,400 county and law enforcement officials who answered a survey saw little or no practical purpose behind the constitutional office, and who said it should be abolished or its law enforcement authority eliminated or restricted.

The reports says most states have outright abolished constables, limited the office's functions or imposed restrictions. Kentucky is among 12 states that have allowed the office to exist.

Brown, who presented the report's findings during a meeting of the Kentucky Law Enforcement Council in Louisville, said in a statement that he would continue to address the issues raised in the report and will review any legislative proposals that might result.

Brown said he asked for the study "to look at all angles of the office and determine if a position that served a defined need 200 years ago was still relevant today. The answer is a resounding 'no.'

"The report said there is no required training, education or experience for constables — a standard inconsistent with other Kentucky law enforcement officers, who are certified according to the Peace Officer Professional Standards.

"Certified peace officers today meet rigorous pre-employment standards and training and are regulated through multiple layers of oversight and public scrutiny," Brown said in the news release. "That standard is diluted when law enforcement powers are shared with individuals who lack the required training and accountability.

"The General Assembly could remove or restrict the law enforcement authority of constables, but attempts at legislation have been unsuccessful, according to the report.

The law enforcement benefit to counties is negligible, the report said, as constables perform less than one-fourth of one percent of the law enforcement work in Kentucky.

"As none of these functions require law enforcement authority their authorized (and sometimes unauthorized) activities create liabilities and risks to counties," the news release said.

Even among constables who were surveyed, there was a dramatic disparity in the type of duties they perform, the understanding of what their role is, and the level of education and training they receive, the news release said.

Hamlin said he had asked several lawmakers to sponsor legislation that would allow training for constables. Sparks, a deputy for second-district Constable Jim McKenzie, said the duties of the office of constable might need to be revamped and he thought training was needed, but he didn't think the office should be abolished.

In many counties where law enforcement resources are low, Sparks said, "We help to provide a lot of gaps that are missing."

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# Constables outdated in Kentucky, Justice Cabinet finds

Justice Cabinet's findings could fuel move by General Assembly to abolish office

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Kentucky's elected constables are an antiquated and irrelevant arm of law enforcement who are poorly trained and unregulated, according to a [report released Thursday](#) by the state Justice and Public Safety Cabinet.

"This is about an institution dating back to at least 1792 ... we've all evolved; this has not," said Secretary J. Michael Brown as he presented results of the report to the Kentucky Law Enforcement Council, which unanimously endorsed the report at its meeting Thursday.

"It's time now to finally take a look at this office and not continue to push the issue down the road," Brown said.

Brown said the cabinet has no authority to act on the issue, but the report provides the evidence and research that the General Assembly could use to approve a constitutional amendment abolishing the elected office.

A statewide vote would still be needed for final passage. Easier paths include passing statutes that reduce or eliminate constables' law enforcement authority.

According to the report, there were 509 constables serving in 2011, though there are 586 constable districts in the commonwealth.

The office most recently came under public scrutiny when Jefferson County Constable David Whitlock was convicted of shooting a suspected shoplifter in a Walmart parking lot in November 2011. In his Alford plea, where he did not admit guilt but acknowledged there was enough evidence to convict, Whitlock agreed to resign from his constable's position.

A Department of Criminal Justice Training work group spent six months putting together a history of constables in Kentucky, reviewed other states' experiences and surveyed law enforcement groups, constables, judges, lawyers and others.

More than 1,400 survey responses were received, and the overwhelming majority said they see little to no practical purpose for constables. The responses show that most of those surveyed believe the constitutional office should either be abolished or its law enforcement authority eliminated or restricted.

Calls seeking comment from the Kentucky Constables Association weren't answered Thursday.

John Bizzack, commissioner of the training department, said about 0.02 percent of all law enforcement action is done by constables.

He said the report provides a resounding "no" as the answer to the question of whether constables are necessary in Kentucky.

"We now can take (the argument) out of the realm of inexpert opinions and use the facts," Bizzack said.

Kentucky State Police Commissioner Rodney Brewer served in the work group and said he has concerns about the roles constables play because no training is required. Each state trooper must undergo extensive background checks and complete 23 weeks of training before being allowed to work on the street, he said.

"That's a stark contrast," Brewer said. "I find it a little unimaginable that in today's society we have people with police powers with little or no training."

Nothing in the law sets out standards or required training for constables.

The report found that Kentucky is one of only 12 states that continue to have constables.

Louisville Metro Police Chief Steve Conrad said he hasn't read the report yet but agrees the issue of constables' roles should be looked at. "It's concerning to me that we have people armed with guns ... that don't have the proper training," he said.

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